

EXHIBIT B

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1 IN THE UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

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4 PAUL PAPADAKIS,
5 Plaintiff,

CIVIL ACTION

6

vs.

FILE NO. 04-30189-MAP

7 CSX TRANSPORTATION, INC.,
8 Defendant.

9

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11

DEPOSITION OF

12

JOSEPH KENT

13

DELTA CROWN ROOM, TERMINAL A, A-17

14

HARTSFIELD/JACKSON ATLANTA AIRPORT

15

ATLANTA, GEORGIA / DECEMBER 21, 2005

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11:20 a.m. - 3:05 p.m.

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REPORTED BY:

ANNA-MARIE CHEAK, RPR/CSR

20

ESQUIRE DEPOSITION SERVICES

ATLANTA OFFICE - 404-872-7890

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FILE NO: 420079

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23

24

ORIGINAL

25

1 A That is my understanding, yes.

2 Q Which again, of course, is the type of
3 gear that was on the Papadakis vehicle?

4 A Yes.

5 Q There is also a bar that has a
6 configuration that involves a double bend at one end
7 and a single bend at the other?

8 A Yes.

9 Q You're aware of that?

10 A I am.

11 Q Are you aware that there's been testimony
12 that that is the type of bar Mr. Papadakis was using
13 on the day of this incident?

14 A I'm aware of that.

15 Q If Mr. Papadakis was using the bar with
16 the double bend at one end, it was the inappropriate
17 bar to be using with the particular gear that was on
18 his vehicle?

19 A I would agree with that.

20 Q Do you agree that the bar that has the
21 single bend on each end, that is the appropriate
22 0307 Easy-Lift style bar, has a reduced potential
23 for causing over-traveling because of the
24 configuration of the bends, vis-a-vis, the bumper on
25 the vehicle?

1 A I would agree with that.

2 Q The bar with the double bend on one end,
3 which reportedly Mr. Papadakis was using, does not
4 have the potential for avoiding over-travel of the
5 stop arm and component parts due to the
6 configuration of the double bend, vis-a-vis, the
7 bumper?

8 A I would say that it does not use the
9 bumper as a physical stop to prevent over-travel.

10 Q In other words --

11 A Whereas the correct bar does. The bar
12 itself actually contacts the bumper before you get a
13 significant degree of over-travel of the upper side.

14 Q And in fact, Mr. Ebert expressed that a
15 number of times over the course of his deposition,
16 didn't he?

17 A I believe he did.

18 Q And Mr. Ebert took, literally took the
19 double bend bar away from Mr. Ross and told him to
20 use this bar, meaning the one with the single bend
21 the either end?

22 A I think when Mr. Ross initially tried to
23 lower the gear, I seem to recall -- and again, the
24 deposition speaks for itself, but I do recall some
25 conversation about that.

1 5, correct me if I'm wrong, but it would appear that
2 the stop screw is rotated to a greater degree in the
3 photograph than it is in the schematic which is
4 Exhibit 5?

5 A I would agree with that.

6 Q And that's because you were able to -- or
7 someone was able to cause over-travel by using the
8 wrong bar?

9 A That's correct.

10 Q Which would not have been possible had the
11 bar with the single bend at either end been used?

12 A I would agree with that.

13 Q And when the gear -- or the stop arm,
14 rather, and the set screw were in the configuration
15 shown in Exhibit No. 6, was an effort made at that
16 point to raise the gear?

17 A Yes.

18 Q And what happened when the gear was
19 raised, if anything?

20 A Well, the mechanism was basically wedged
21 where the cam -- nothing was moving at that point.
22 An attempt was made to release the --

23 Q Locking pawl?

24 A The preload. No, not the locking pawl.
25 The locking pawl wouldn't move because there was